IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.07.2007

CORAM:

THE HONOURABLE MR.JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.R.C.No.748 of 1999

Ranganathan .. Petitioner

vs.

1. Sakthivel
2. Viswanathan
3. Jayalakshmi
4. Ponnambalam
5. Ravichandran
6. Sarangapani
7. State rep. by Deputy
   Superintendent of Police
   Thirukoilur .. Respondents

This revision is filed u/s 397 r/w 401 Crl Procedure Code against the judgment in S.C.No.96/94 dated 8.4.1999 on the file of Assistant Sessions Judge, Villupuram Division at Tindivanam.

For petitioner : Mr.K.Srinivasan

For Respondents : Mr.C.Raghurajan
(Legal Aid Counsel)-RR1,R3 to R6
R2-died.

O R D E R

This revision has been preferred against the judgment in S.C.No.96 of 1994 on the file of the Assistant Sessions Judge, Tindivanam, which emanates from a complaint preferred by P.W.1, the Village Administrative Officer under Sections 498 (A) and 304(B) of IPC against the accused, A1 being the husband of the deceased and A2 to A6 are in laws of the deceased. Pending revision, A2 died.

2. The short facts of the case of the prosecution are that on 19.6.1993 at about 4.30p.m., the deceased, the wife of A1 had committed suicide by hanging herself in the land belonging to one Ponnambalam. After investigation, the 7th respondent has filed the charge sheet against the accused under Sections 498 (A) and 304(B) of IPC.

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3.The learned Judicial Magistrate, after taking cognizance of the offence, had issued summons to the accused and on their appearance, furnished copies under Section 207 of Cr.P.C. Since the case is exclusively triable by a Court of Sessions, the learned Judicial Magistrate No 2, Ulundurpet had committed the case to the Court of Sessions under Section 209 of Cr.P.C. On appearance of the accused, the learned Assistant Sessions Judge had framed charges under Sections 498(A) and 304(B) of IPC and when the offence was explained to them and questioned, the accused pleaded not guilty.

4. On the side of the prosecution, P.Ws 1 to 16 were examined and Exs P1 to P14 were marked.

4a. P.W.1 is the Village Administrative Officer of Periapattu village and was also in charge of Srupuliyur Village on the relevant date. On hearing that the victim girl had committed suicide by hanging in a neem tree in the land of one Ponnambalam, he had visited the place of occurrence at about 8.00p.m., and preferred ExP1 complaint to the police.

4b. P.W.2 is the father of the deceased Shanthi. According to him, on 28.4.1993, he had gone to attend funeral of one of his relatives and returned on the next day ie., on 29.4.1993 at about 9.00 a.m., his son had informed that an unfortunate thing has happened in the house on the previous night. According to the information, the deceased Shanthi was lying in the house in a compromising position with A1 and there was a panchayat held on the morning on his complaint alleging that A1 had committed an offence of rape against his third daughter Shanthi. In the panchayat, A1 and his parents have demanded 50 cents of land and 10 sovereigns of gold ornaments as dowry for conducting the marriage of Shanthi with A1. He had agreed to give three sovereigns of gold ornaments and besides household articles and also agreed to execute a sale deed for 50 cents. Thereafter the marriage between, deceased Shanthi was solemnised with A1 at Kailasanathar Koil, Ulundurpet and even after the marriage both the couples were staying only in his house. According to him, he had only registered the sale deed for 50 cents but failed to give three sovereigns of jewels as agreed upon by him towards dowry. According to him, the panchayat took place on 5th and the sale agreement was entered on 6th and the marriage was registered on 7th and even thereafter the accused had failed to take his daughter with them. It is the specific allegation of P.W.2 that the accused laid a condition that if the dowry has agreed between the parties are given by P.W.2, they will not take the deceased Shanthi to their house. Even thereafter his daughter with in his house for about one month. When approached A4, Ponnambalam in whose lands, the occurrence had taken place has advised him to give dowry as agreed

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upon. When he took his daughter Shanthi to the house of A1, A1's mother had abused him and made an attempt to assault him with broom stick. A5 has also abused him. Thereafter, he brought his daughter to home and she had stayed in his house about 10 days. A1 did nottake Shanthi to his house. On 19.6.1993 by noon, the deceased Shanthi went to the garden of A1, after informing one Kandasamy. According to P.W.2, even the accused beat his daughter Shanthi in the garden and thereafter, he heard that his daughter had committed suicide by hanging herself in a neem tree in the land of Ponnambalam. According to him, Ex P2 letter was seized by Revenue Divisional Officer from the corpse of his daughter.

4c. P.W.3 Kannan, is the brother of P.W.2. According to him, there was a panchayat took place in the house of A1 and the panchayatars are one Ranganathan, Kodivel and Kandasamy and in the panchayat, according to him, A1 and his parents have demanded 10 sovereigns of gold ornaments, besides house hold articles towards dowry. But P.W.2 had agreed to offer three sovereigns of gold ornaments besides cot, Bureau and other household articles.

According to P.W.3, the accused have also demanded 50 cents of land and that they have obtained signatures in a blank bond paper to the value of Rs.2,000/- and that marriage between the deceased Shanthi and A1 took place in a temple and after the marriage, the couples were taken to the house of P.W.2, where they have stayed for nearly one month and that the accused refused to take Shanthi unless, she brings the agreed dowry and ten days thereafter A1 had agreed to take his wife to his house and on the assurance given by A1, P.W.2 and P.W.4 took the couples to A1's house but they immediately returned with Shanthi. Thereafter, A1 did not come to the house of Shanthi and he heard that Shanthi had committed suicide and that P.W.1 ,the Village Administrative Officer, had preferred a complaint.

4d. P.W.4 is the another brother of P.W.2, who had also corroborated the evidence of P.W.2 and P.W.3. He speaks about the demand of dowry by the accused before the panchayat and also the intimidation made by the accused when the deceased Shanthi was taken to the house of A1. According to him, Shanthi, before her death, had informed him that she is going to the house of A1 Sakthivel and that on the same day, evening he heard that Shanthi had committed suicide.

4e. P.W.5 Kandasamy speaks about the registered marriage which took place between the deceased Shanthi and A1 at Kailasanathar Koil, Ulundurpet and that he had signed as a witness for the marriage which took place between the deceased Shanthi and A1. According to him, even after the marrige Shanthi was living with her parents along with A1 for sometime and he heard about the death of Shanthi by suicide.

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4f. P.W.6 is the another Village Administrative Officer and that on the date of occurrence, he was on permission and P.W.1 was in additional in charge of Srupuliyur Village. According to him, the police had visited the place of occurrence and prepared Ex P3 Observation mahazar in his presence.

4g. P.W.7 is the another witness in the Mahazar. P.W.8 Dhandapani was the Sub Registrar of Cuddalore Sub Registrar's office at the relevant point of time. According to him, on 7.5.1993 the marriage between the deceased Shanthi and A1 took place in Sri Vinaithirthar Vinayagar Temple, Cuddalore and for the registration of the said marriage, an application was presented before him and after ascertaining the factum of marriage between the deceased Shanthi and A1, he had registered the marriage and obtained the signature of Shanthi and A1 in the marriage register Ex P8 maintained in his office.

4h. P.W.9 would depose that the marriage between the deceased Shanthi and A1 took place in Kailasanathar Temple, Ulundurpet and thereafter marriage was registered in the register office, Cuddalore. P.W.10 is the photographer, who took photographs after the occurrence. According to him, M.O.1 series are the photographs taken by him.

4i. P.W.11 is the Sub Inspector of Police, who had registered the case on the basis of the complaint ExP1 preferred by P.W.1 on 19.6.1993 at about 10.45p.m., under Thirunavalur Police Station crime No.481/93 under Sdection 174 of Cr.P.C. Ex P4 is the first information report. Since the deceased Shanthi had committed suicide, within seven years from the date of her marriage, and the copy of the first information report to the Revenue Divisional Officer, Virudhachalam and also Deputy Superintendent of Police, Virudhachalam besides sending the copies to the Court.

4j. P.W.12 is the postmortem constable, who had identified the corpse after Revenue Divisional Officer had the enquiry before the Government Doctor, Ulundupet and has identified the corpse to the Doctor, who had conducted postmortem on the corpse of Shanthi. Ex P6 is the letter of requisition given by Investigating Officer. P.W.13 the post mortem doctor, who had conducted autopsy on 21.6.1993 at 10.30a.m.,. The doctor had opined that due to asphyxia the deceased Shanthi would have died 40 to 48 hours prior to Autopsy. ExP8is the post mortem certificate.

4k. P.W.16 the Investigation Officer, who had visited the place of occurrence and prepared Observation Mahazar Ex P3 and also had drawn a rough sketch ExP12. Thereafter, he had made arrangement to take photographs on the dead body through photographer. He had informed the Revenue Divisional Officer for enquiry. P.W.15 is the Revenue Divisional Officer, who had conducted an inquest on the corpse of the deceased on the basis of the letter of requisition Ex P7, made by P.W.16. Ex P8 is the

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observation Mahazar prepared by P.W.15 and he had also examined the witnesses and recorded their statements and had conducted inquest in the presence of P.W.5 and other witnesses. ExP9 is the inquest report. He had also submitted his final report Ex P11 to the District Collector , and has also seized Ex P2 letter from the corpse. P.W.16 had conducted further investigation and the final report was filed by P.W.14 against the accused under Section 304 (B) and 498(A) of IPC .

5.When incriminating circumstances were put to the accused, they would deny their complicity with the crime. Exs D1 to D9 were marked on the side of the accused through P.W.2. After going through the available evidence both oral and documentary, the learned trial Judge has come to a conclusion that there is no material produced by the prosecution for demand of dowry and also for bringing the guilt of the accused under Sections 498(A) and 304(B) of IPC to warrant conviction and accordingly acquitted the accused from the charges levelled against them, which necessitated P.W2, the father of the deceased Shanthi to prefer this revision.

6. Now the point for determination in this appeal is whether the findings of the learned trial Juge is perverse in nature to warrant any interference from this Court?.

7.Heard Mr.K.Srinivasan, learned counsel for the petitioner and Mr.C.Raghurajan, the learned Legal Aid counsel for the respondent Nos 1,3 to 6 and considered their rival submissions.

8.The point:-
The case of the prosecution is that P.W.2 was informed by his son about the misconduct of the deceased Shanthi by A1, on 28.4.1993 night. According to him, a Panchayat was convened in this regard with the parents of A1 and in that Panchayat, A1 and his parents and other relatives have demanded 50 cents of lands and 10 sovereigns of gold ornaments and that he had agreed to execute a sale deed in favour A2, the father of A1 for 50 cents and also three sovereigns of gold ornaments before the Panchayatars and accordingly he had executed Ex D5 sale deed in favour of A2 on 6.5.1993 for 50 cents and the marriage took place before a temple at Ulundurpet and thereafter the marriage was registered in the Sub Registrar's Office, Cuddalore. But even thereafter, the accused have refused to take the deceased Shanthi to their house on the ground that till they give the remaining seven sovereigns of gold ornaments and other house holdarticles as and agreed dowry before the panchayatars and according to him, as requested by A1, he along with the deceased Shanthi went to the house of A1 where they were treated with all humiliation and he returned to his house with his daughter Shanthi and on the fateful day, Shanthi went to the house of A1, but later he heard that she had committed suicide. In the inquest report Ex P9, the Revenue Divisional Officer had mentioned that in his enquiry with the villagers, he has come to know about some harassment for dowry which might have driven the victim girl to the extreme step of committing suicide. According to the

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prosecution , in the inquest, the Revenue Divisional Officer had recovered Ex P2 letter from the corpse of the deceased. On a reading of Ex P2 will go to show that it should have been written by Shanthi before the marriage and not after the marriage. It is the definite case of the prosecution that the demand of 10 sovereigns of gold ornaments and 50 cents of lands were made before the panchayatars, but to our dismay, there were no panchayatars examined on the side of the prosecution to prove the demand made by the accused in the panchayat for 50 cents of lands and 10 sovereigns of gold ornaments. Ex D5 is the sale deed executed by P.W2 in favour of A2, the father of A1. If Ex D5 sale deed was executed on 6.5.1993, there is no necessity for the accused to make any demand for 50 cents of lands by way of dowry as rightly observed by the learned trial Judge that there is no explanation forthcoming on the side of the prosecution that ExD5 sale deed was executed by P.W.2 in favour of A2, the father of A1.Only in lieu of the dowry demand made by A1 and his parents. It is in evidence that even after the marriage, A1 was also residing with the deceased in the house of P.W.2 for nearly one month. If the case of the prosecution is true, then the accused would not have agreed for a marriage to be taken place before a temple, which was followed by registration of the same before the Sub Registrar, Cuddalore. There is absolutely no evidence to bring home the guilt of the accused under Sections 498(A) and 304(B) of IPC to warrant conviction as rightly held by the learned trial Judge, which in my opinion, does not warrant any interference from this Court. The point is answered accordingly.

9. In fine, the revision is dismissed confirming the Judgment in S.C.No.96 of 1994 on the file of Assistant Sessions Judge, Villupuram Division at Tindivanam. The service rendered by Mr.C.Raghurajan, the learned Legal Aid Counsel is recorded with appreciation. The Member Secretary of the Tamil Nadu Legal Services Authority is directed to pay a sum of Rs.3,000/- to the legal aid counsel towards his remuneration.

sg

Sd/-
Assistant Registrar,

/true copy/

Sub Assistant Registrar.

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To,

1. The Assistant Sessions Judge, Tindivanam,
2. The Principal Sessions Jude, Villupuram.
3. The Member Secretary of the Tamilnadu Legal Services Authority, Madras.

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4. The Deputy Superintendent of Police, Tirukovilur.
5. The Public Prosecutor, High Court, Chennei.
+ One cc to Mr. K. Srinivasan, Advocate sR 45417
+ One cc to mr. C. Regurajan, Advoate sR 45045
sg
sg 6/8/07

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